

REMARKS/ARGUMENTS

In the specification, the Examiner asked that Applicants specify whether the durometer measured is based on the Shore A or the Shore D scale. The specification now expressly specifies that the durometer reading is based on the Shore A scale. Accordingly, the paragraphs numbered [8] and [17] have been rewritten to make this clear. Applicants submit that no new matter has been added by this clarification because it would be implicit to one of ordinary skill in the art that the durometer readings were based on the Shore A scale.

Claims 1-10 remain in this application. Claim 11 has been cancelled. New claims 12-21 have been added.

Claims 5-10 were objected to in the Office Action because they were in multiple dependent format. These claims have been amended so that they are no longer in multiple dependent format. Claims 12 and 13 are dependent claims that were formerly part of claims 9 and 10. These claims are now included as separate independent claims to avoid use of the objected to multiple dependent format.

Claims 6 and 7 have been amended to indicate that the shore hardness referenced is based on the Shore A scale.

Claim 11 was rejected under 35 U.S.C. 112, second paragraph. Claim 11 has been canceled.

Claims 1-10 stand rejected under 35 U.S.C. 103, the Examiner states that the claims are unpatentable over Bell (U.S. Patent no. 3,553,040) in view of King (U.S. Patent No. 4,164,807) and Siebol (U.S. Patent No. 4,170,920). Applicants respectfully submit that amended claim 1 presents patentable subject matter over these references and requests reconsideration of this rejection for the following reasons. These references taken alone or in combination do not show or suggest Applicants' claimed invention. There is no justification in this cited art separate from Applicants' disclosure that suggests that these references be combined.

In a Supplemental IDS submitted along with this response Applicants enclose a page taken from a product catalog that shows a "Stepped Blind Rivet." (hereinafter referred to as "the catalog page"). Referring to the middle column with the header

“Stepped Blind Rivet being used as Pin Joint,” it is disclosed how such “stepped blind rivets” provide a pin joint with the rivet head being the stop or guide for sliding elements. A picture below this description notes that a “ball bearing or pulley” could be used with this type of rivet. The Examiner appears to rely on a combination of Bell and King to show a stepped blind rivet, Applicants submit that the attached catalog page shows a stepped blind rivet.

Siebol discloses a fastener that is “utilized with a typical roof construction.” (Col. 4, ll. 52-53). The reference teaches that the fastener may be used where “it is important to keep one sheet a desired distance from another sheet.” (Col. 4, ll. 56-58). In one embodiment, Siebol discloses a washer, labeled 31, that may be mounted on the rivet body near the rivet head. The patent states that the washer may be used to create a water tight seal. The washer is disposed against the underside of the fastener head. Referring to FIGS. 5, 10, 14 and 14A, in every instance where the rivet setting process has occurred the washer is completely covered by the fastener head and no surface of the washer remains exposed.

Amended claim 1 calls for a blind fastener that includes in part a “flange [that] is at least partially encased in a resilient material, whereby after said setting of said fastener a portion of said resilient material remains exposed for providing a stop surface.” Neither the catalog page nor the Siebol reference either taken alone or in combination disclose or suggest this limitation.

The catalog page taken alone, also does not teach or suggest the claimed invention. Claim 1 calls in part for a flange that is “encased in a resilient material.” Although the catalog page shows a ball bearing or pulley that is disposed around the rivet body, the catalog page does not teach or suggest that the ball bearing or pulley is resilient. In fact, as discussed above the rivet shown in the catalog page seeks to solve the problem of using the rivet along with sliding elements. Accordingly one of ordinary skill would not even look to the catalog page rivet to teach the resilient material of claim 1.

As discussed above, Siebol shows that after the setting process of the rivet has occurred no surface of the washer remains exposed. Claim 1 calls in part for a portion of

the resilient material to remain exposed for providing a stop surface. Siebol does not teach or suggest this limitation.

In order to combine these references to provide an exposed surface one of ordinary skill in the art would have to rely on the embodiment of the stepped blind rivet shown in the middle column of the catalog page entitled "Stepped Blind Rivet being used as a Pin Joint." Applicants submit that one of ordinary skill in the art would not be motivated to combine this embodiment of the stepped blind rivet with the washer shown in Siebol. As shown in the catalog page, a stepped blind rivet is typically used as a guide for sliding elements. One of ordinary skill would not look to combine the type of fastener shown in Siebol with the fastener shown in the catalog page, because Siebol does not relate to the use of a rivet as a guide for sliding elements. Instead, Siebol teaches a fastener for an application where it is important to keep one sheet at a desired distance from another sheet and to create a watertight seal.

The fact that the Siebol rivet was designed for a particular purpose and the stepped blind rivet was designed for a different purpose, teaches away from selectively substituting the washer of Siebol into the stepped type blind rivet shown in the catalog page. Indeed, Siebol teaches away from using the washer in a stepped blind rivet, because the stepped blind rivet head would not collapse completely around the washer, as evident from the Fig. of the catalog page showing a ball bearing under rivet head. Therefore, the proposed combination would not achieve the disclosed purpose of the Siebol washer which is to create a water tight seal. Although both the Siebol reference and the catalog page happen to disclose rivets, that is not a sufficient basis to selectively substitute a washer from Siebol for parts of the rivet shown on the catalog page in order to meet Applicants novel claim 1. Claims 2-10 and 12-13 depend from claim 1 and are patentable for at least the same reasons as discussed above.

The Examiner also referenced but did not discuss GB 2,302,148. For at least the reasons discussed above, one of ordinary skill would not be motivated to combine this reference with any of the cited art or the catalog page.

Moreover even if this GB reference was combined with the catalog page or other cited art the combination would not teach or suggest the limitation of claim that calls for

a flange that is encased in a resilient material. Instead, the cited GB patent teaches plastic moulding, but there is no teaching or suggestion that this plastic moulding is resilient.

The Examiner referenced but did not discuss U.S. 4,921,371. Applicants submit that this reference does not teach or suggest any of the limitations of claim 1.

In the Office Action, claims 1-10 are also rejected under 35 U.S.C. 103(a), the Examiner states that the claims are unpatentable over Gaquere (U.S. Patent No. 5,581,867) in view of Siebol. The Examiner appears to rely on the Gaquere reference primarily to show a stepped blind rivet; as discussed above, Applicants have submitted a catalog page that shows a stepped blind rivet. Also as discussed above in greater detail, one of ordinary skill would not be motivated to combine either the catalog page or Gaquere with Siebol, because Siebol does not seek to solve the problem of providing a rivet for use with sliding elements. In fact, Siebol teaches away from this proposed combination. For at least these reasons, claim 1 is not unpatentable over the cited art. Claims 2-10 depend from claim 1 and therefore are not unpatentable for at least the same reasons.

New Claims 14-21 recite features that are fully supported by the specification. Claim 14 calls in part for a fastener that includes "a resilient stop attached to the first portion" of the body. This feature is not shown or suggested by the prior art. New claims 15-19 depend from claim 14 and thus present patentable subject matter for at least the same reasons.

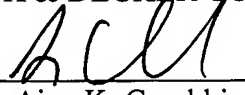
New claim 20 calls in part for "a resilient member disposed around a substantial part of the first portion of the body, whereby the resilient member is designed to provide a surface that comes into contact with the carrier to prevent the carrier from moving." This feature is not shown or suggested by the prior art. New claim 21 depends from claim 20 and thus presents patentable subject matter for at least the same reasons.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Appl. No. 10/825,028
Admt. Dated July 1, 2005
Reply to Office action of Feb. 1, 2005

Respectfully submitted,

BLACK & DECKER CORPORATION

By 
Ajay K. Gambhir
Reg. No. 44,115
Tel.: (410) 716-2881